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Attorney for Plaintiff

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

JUSTIN TYLER VANDEGRAAF,

Plaintiff,

vs.

**CITY OF EUGENE, A MUNICIPALITY;
OFFICER J. SHARLOW (No. 388), in his
individual capacity and as a police official for
the City of Eugene,**

Defendants.

Case No.: 6:08-cv-6314-HO

**RESPONSE TO DEFENDANT'S MOTION
FOR SUMMARY JUDGMENT**

Pursuant to Fed R. Civ. P. 56

LR 7.1(a) CERTIFICATION

Counsel for Plaintiff Justin VandeGraaf certifies that he conferred with Defendant's counsel concerning the subject matter of this motion and that the parties have been unable to reach an agreement.

RESPONSE

(1) Plaintiff concedes the City of Eugene's Motion for Summary Judgment against plaintiff's 42 U.S.C. § 1983 claim.

- (2) Plaintiff opposes to Defendant City of Eugene's motion to dismiss plaintiff's state law claims for assault and battery on the basis that there are genuine issues of material fact to be determined by a trier of fact on both state claims.
- (3) Plaintiff takes no position on Defendant City of Eugene's motion, in the alternative, to decline the exercise of supplemental jurisdiction over the state court claims.
- (4) This motion is supported by the district court file, Plaintiff's Memorandum in Opposition to the Motion for Summary Judgment, Declaration of Michael Vergamini, together with attached exhibits and Plaintiff's and Plaintiff's Response to Defendant's Concise Statement of Facts.

Dated this 26th day of August, 2009.

/s/ Michael Vergamini
Michael Vergamini
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I certify that on September 3, 2009, I served or caused to be served a true and complete copy of the foregoing **RESPONSE TO DEFENDANT'S MOTION FOR SUMMARY**

JUDGMENT on the party or parties listed below as follows:

 X Via CM / ECF Filing
 Via First Class Mail, Postage Prepaid
 Via Email
 Via Personal Delivery

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By: /s/ Michael Vergamini
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